

Small toys and crayons given by a restaurant to children as part of their meal is generally considered part of the meal being transferred to those children and may be purchased for resale. See 86 Ill. Adm. Code 130.1401. (This is a GIL).

March 11, 2002

Dear Xxxxx:

This letter is in response to your letter dated January 31, 2002 requesting a Private Letter Ruling. A request for a Private Letter Ruling must be made by an identified taxpayer or by a taxpayer's representative under a power of attorney from that identified taxpayer. The Department will not issue Private Letter Rulings to taxpayer representatives for anonymous or unidentified taxpayers. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found on the Department's Internet website at <http://www.revenue.state.il.us/Laws/regs/part1200/>.

In your letter, you have stated and made inquiry as follows:

Several of my restaurant clients are purchasing three items that we believe to be exempt from your states sales tax when the restaurant purchases them. They are currently paying the sales tax to their suppliers. Before we request an exemption and refund, we are requesting a ruling from your department in writing.

The items and their uses are as follows:

1. Toys -- Small toys placed in kids meal boxes when sold.
2. Suckers/Mints/Hard Candy -- Items given to customer's children or placed on the checkout counter or on the buffet table to be picked up by the customer. There is no additional charge for these items.
3. Crayons -- Crayons are given to children along with a printed coloring sheet when they sit down. Again, there is no charge for the crayons. The crayons are either taken by the child or are disposed of when the party leaves the restaurant unless they have not been used in which case they are given to another child.

Please fax me the ruling.

DEPARTMENT'S RESPONSE:

Generally, small toys and prizes provided by a restaurant in a child's meal and transferred to the customer as part of the sale of such child's meal may be purchased by the restaurant for resale. Crayons and coloring papers given to children at a restaurant with their meal are similarly considered as part of the sale of such children's meal and may be purchased by the restaurant for resale. For purchases of tangible personal property for resale, see the attached copies of 86 Ill. Adm. Code 130.1401 and 130.1405.

Candy provided to customers as part of their meal, including candy placed on checkout counters and on buffet tables, is also generally considered part of the meal being transferred to the customers and may be purchased for resale.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk
Enc.